



Substitute House Bill No. 6356

Public Act No. 17-117

AN ACT CONCERNING PUBLIC NOTICE OF TREE REMOVAL ON MUNICIPAL PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 23-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any person, firm or corporation which affixes to a telegraph, telephone, electric light or power pole, or to a tree, shrub, rock or other natural object [in] on any municipal property or in any public way or grounds, a playbill, picture, notice, advertisement or other similar thing, or cuts, paints or marks such tree, shrub, rock or other natural object, except for the purpose of protecting it or the public and under a written permit from the town tree warden, the borough tree warden, city forester or Commissioner of Transportation, as the case may be, or, without the consent of the tree warden or of the officer with similar duties, uses climbing spurs for the purpose of climbing any ornamental or shade tree within the limits of any municipal property or public highway or grounds, shall be fined not more than fifty dollars for each offense.

(b) Any person, firm or corporation, other than a tree warden or deputy tree warden, who removes, prunes, injures or defaces any

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shrub or ornamental or shade tree, within the limits of a parcel of municipal property or public way or grounds, without the legal right or written permission of the town tree warden, the borough tree warden, the city forester, the Commissioner of Transportation, the Public Utilities Regulatory Authority or other authority having jurisdiction, may be ordered by the court in any action brought by the property owner or the authority having jurisdiction affected thereby to restore the land to its condition as it existed prior to such violation or shall award the landowner the costs of such restoration, including reasonable management costs necessary to achieve such restoration, reasonable attorney's fees and costs and such injunctive or equitable relief as the court deems appropriate. In addition, the court may award damages of up to five times the cost of restoration or statutory damages of up to five thousand dollars. In determining the amount of the award, the court shall consider the willfulness of the violation, the extent of damage done to natural resources, if any, the appraised value of the shrub or ornamental or shade tree, any economic gain realized by the violator and any other relevant factors. The appraised value shall be determined by the town tree warden, the borough tree warden, the city forester, the Commissioner of Transportation, the Public Utilities Regulatory Authority or other authority having jurisdiction and shall be determined in accordance with regulations adopted by the Commissioner of Energy and Environmental Protection. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to develop guidelines for such plant appraisal. The regulations may incorporate by reference the latest revision of The Guide for Plant Appraisal, as published by the International Society of Arboriculture, Urbana, Illinois. Until such time as regulations are adopted, appraisals may be made in accordance with said Guide for Plant Appraisal.

(c) Any person, firm or corporation which deposits or throws any advertisement within the limits of any municipal property or public

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way or grounds, or upon private premises or property, unless the same is left at the door of the residence or place of business of the occupant of such premises or property, or deposits or throws any refuse paper, camp or picnic refuse, junk or other material within the limits of any parcel of municipal property or public way or grounds, except at a place designated for that purpose by the authority having supervision and control of such municipal property or public way or grounds, or upon private premises or property without permission of the owner thereof, or affixes to or maintains upon any tree, rock or other natural object within the limits of a parcel of municipal property or public way or grounds any paper or advertisement other than notices posted in accordance with the provisions of the statutes, or affixes to or maintains, upon the property of another without his consent, any word, letter, character or device intended to advertise the sale of any article, shall (1) for a first offense, be fined not more than two hundred fifty dollars, and (2) for any subsequent offense, be guilty of a class C misdemeanor.

(d) The removal, pruning or wilful injury of any shrub or ornamental or shade tree, or the use of climbing spurs upon any ornamental or shade tree without the consent of the tree warden or of the officer with similar duties or the affixing of any playbill, picture, notice, advertisement or other similar thing concerning the business or affairs of any person, firm or corporation, to a pole, shrub, tree, rock or other natural object, within the limits of any parcel of municipal property, public way or grounds in violation of the provisions of this section by an agent or employee of such person, firm or corporation, shall be deemed to be the act of such person, firm or corporation, and such person, or any member of such firm or any officer of such corporation, as the case may be, shall be subject to the penalty herein provided, unless such act is shown to have been done without his knowledge or consent.

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(e) The affixing of each individual playbill, picture, notice, advertisement or other similar thing to a pole, shrub, tree, rock or other natural object, or the wilful removing, pruning, injuring or defacing of each shrub or tree, or the throwing of each individual advertisement or lot of refuse paper or other material within the limits of any parcel of municipal property or public way or grounds or on private premises, shall constitute a separate violation of the provisions of this section. Nothing in this section shall affect the authority of a tree warden, either by himself or by a person receiving a written permit from him, to remove, prune or otherwise deal with a shrub or tree under his jurisdiction.

(f) Any person, firm or corporation, other than a tree warden or his deputy, who desires the cutting or removal, in whole or in part, of any tree or shrub or part thereof within the limits of any parcel of municipal property or public road or grounds, may apply in writing to the town tree warden, the borough tree warden or the Commissioner of Transportation or other authority having jurisdiction thereof for a permit so to do. Upon receipt of such permit, but not before, the applicant may proceed with such cutting or removal, provided doing so is also consistent with section 16-234, as amended by this act, if applicable. Before granting or denying such permit, such authority may hold a public hearing as provided in section 23-59. Such application shall be acknowledged by the authorizing authority upon the commencement of any public comment period or public hearing or upon such authority's decision to forego such a hearing. When the applicant is a public utility corporation, the party aggrieved by such decision may, within ten days, appeal therefrom to the Public Utilities Regulatory Authority, which shall have the power to review, confirm, change or set aside the decision appealed from and its decision shall be final provided a tree warden's reasonable delay to act on such an application for the purpose of public comment or review of the affected vegetation shall not be considered a denial or constitute

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grounds for an appeal to the Public Utilities Regulatory Authority. The burden of proving that public convenience and necessity requires the proposed cutting or removal shall be on the utility. This appeals process shall be in addition to the powers granted to the Public Utilities Regulatory Authority under section 16-234, as amended by this act, provided, if an application for such permit has been made to either a tree warden or the Commissioner of Transportation or other authority and denied by him, an application for a permit for the same relief shall not be made to any other such authority. Upon any approval of such a permit by the Commissioner of Transportation, he shall notify the tree warden for the town in which the tree is located. Upon any approval of such a permit by the Commissioner of Transportation, the permittee shall notify the tree warden for the town in which the tree is located prior to cutting any such tree.

Sec. 2. Section 16-234 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section:

(1) "Utility" means a telephone, telecommunications or electric distribution company, each as defined in section 16-1;

(2) "Utility protection zone" means any rectangular area extending horizontally for a distance of eight feet from any outermost electrical conductor or wire installed from pole to pole and vertically from the ground to the sky;

(3) "Hazardous tree" means any tree or part of a tree that is (A) dead, (B) extensively decayed, or (C) structurally weak, which, if it falls, would endanger utility infrastructure, facilities or equipment;

(4) "Vegetation management" means the retention of trees and shrubs that are compatible with the utility infrastructure and the pruning or removal of trees, shrubs or other vegetation that pose a risk

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to the reliability of the utility infrastructure. Until such time as the Department of Energy and Environmental Protection issues standards for identifying such compatible trees and shrubs, the standards and identification of such compatible trees and shrubs shall be as set forth in the 2012 final report of the State Vegetation Management Task Force;

(5) "Pruning" means the selective removal of plant parts to meet specific utility infrastructure reliability goals and objectives, when performed according to current professional tree care standards and in a manner that retains the structural integrity and health of the vegetation;

(6) "Abutting property owner" means the owner of the property abutting or adjacent to that portion of a public road, public highway or public grounds where the tree or shrub that the utility proposes to remove or prune is located; and

(7) "Private property owner" means the owner of the property where a tree or shrub the utility proposes to remove or prune is located, which may include municipally owned land.

(b) A utility may perform vegetation management within the utility protection zone, as necessary, to secure the reliability of utility services.

(c) (1) In conducting vegetation management, no utility shall prune or remove any tree or shrub within the utility protection zone, or on or overhanging any public road, public highway or public ground, without delivering notice of the proposed vegetation management to the abutting property owner or private property owner. Such notice shall include the option for the abutting property owner or private property owner to consent, in writing, to such proposed pruning or removal, object to such proposed pruning or removal or modify such

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proposed pruning or removal. The notice shall include instructions regarding how the recipient may object in accordance with subdivision (3) of this subsection. Such notice shall also include a statement that if a person objects to the proposed pruning or removal, and such tree falls on any utility infrastructure, such person shall not be billed by the utility for any resulting damage. If requested by an owner of private property, the utility, municipality or the Commissioner of Transportation, as appropriate, shall provide such owner with information regarding whether a tree or shrub to be pruned or removed is in the public right-of-way or whether such tree or shrub is on such owner's private property.

(2) Notice shall be considered delivered when it is (A) mailed to the abutting property owner or private property owner via first class mail, electronic mail or text message, (B) delivered, in writing, at the location of the abutting property or private property owner, or (C) simultaneously conveyed verbally and provided in writing to the abutting property owner or private property owner. A utility shall deliver such notice to the abutting property owner or private property owner at least fifteen business days before the starting date of any such pruning or removal. For any tree located within a public right-of-way, notice shall not be considered delivered until an application is made and acknowledged in accordance with the provisions of subsection (f) of section 23-65, as amended by this act.

(3) The notice shall indicate that (A) objection to pruning or removal shall be filed, in writing, with the utility and either the tree warden of the municipality or the Commissioner of Transportation, as appropriate, not later than ten business days after delivery of the notice, and (B) the objection may include a request for consultation with the tree warden or the Commissioner of Transportation, as appropriate. For purposes of this section, an abutting property owner may file an objection or request for modification by (i) sending a

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written objection or request for modification to the utility or tree warden at the address for each specified on the notice, provided if the written objection is mailed, it shall be deemed received on the date it is postmarked, or (ii) sending by electronic mail an objection or request for modification to the dedicated electronic mail address maintained by the utility as specified on the notice.

(4) The utility shall not prune or remove any tree or shrub that is outside of the public right-of-way unless it receives written affirmative consent from the private property owner to whom notice is required in accordance with subdivision (2) of this subsection.

(5) If no objection is filed by the abutting property owner in accordance with subdivision (3) of this subsection, the utility may prune or remove the trees or shrubs for which notice of pruning or removal has been delivered, provided the utility has also received a permit as required by subsection (f) of section 23-65, as amended by this act. Nothing in this chapter shall be construed to limit the power and authority of a tree warden as set forth in subsection (f) of section 23-65, as amended by this act.

(6) If the abutting property owner files an objection or request for modification pursuant to subdivision (3) of this subsection, or if the utility does not accept the modification to the original notice, as described in subdivision (1) of this subsection, the tree warden of the municipality or the Commissioner of Transportation, as appropriate, shall issue a written decision as to the disposition of the tree or shrub not later than ten business days after the filing date of such objection. This decision shall not be issued before a consultation with the abutting property owner if such a consultation has been requested. The abutting property owner or the utility may appeal the tree warden's decision to the Public Utilities Regulatory Authority within ten business days after the tree warden's decision.

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(A) Prior to the final decision in the docket described in subsection (c) of section 16-32h, the authority shall hold a hearing within sixty calendar days of receipt of the abutting property owner's or utility's written appeal of the tree warden's decision and shall provide notice of such hearing to the abutting property owner, the tree warden or the Commissioner of Transportation, as appropriate, and the utility. The authority may authorize the pruning or removal of any tree or shrub whose pruning or removal has been at issue in the hearing if it finds that public convenience and necessity requires such action. The burden of proving that public convenience and necessity requires such action shall be on the utility.

(B) On and after the effective date of the final decision issued in the docket described in subsection (c) of section 16-32h, the entity designated by the authority, as determined by such docket, shall hold a mediation session not later than thirty calendar days after receipt of the abutting property owner's or utility's appeal of the tree warden's or the Commissioner of Transportation's decision and shall provide notice of such mediation session to the abutting property owner, the tree warden or the Commissioner of Transportation, as appropriate, and the utility, provided the abutting property owner may opt not to utilize such mediation session and proceed to the hearing described in this subparagraph. In the event that the appeal is not settled by mediation, or the abutting owner elects not to use such mediation session, the authority shall hold a hearing not later than thirty calendar days after the conclusion of the mediation session, or within sixty calendar days of the receipt of the abutting property owner's written appeal if there is no mediation session, and shall provide notice of such hearing to the abutting property owner, the tree warden, or the Commissioner of Transportation, as appropriate, and the utility. The authority may authorize the pruning, removal or stump grinding of any tree or shrub whose pruning or removal has been at issue in the hearing if it finds that public convenience and necessity requires such

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action. The burden of proving that public convenience and necessity requires such action shall be on the utility.

(7) When an objection or request for modification has been filed pursuant to subdivision (3) of this subsection, no tree or shrub subject to the objection or request for modification shall be pruned or removed until a final decision has been reached pursuant to subdivision (6) of this subsection.

(d) Subsection (c) of this section shall not apply if the tree warden of the municipality or the Commissioner of Transportation, as appropriate, authorizes, in writing, pruning or removal by the utility of a hazardous tree within the utility protection zone or on or overhanging any public highway or public ground. If the hazardous tree is outside of the public right-of-way, the utility shall make a reasonable effort to notify the property owner of the proposed pruning or removal at least three days prior to performing such pruning or removal. Nothing in this subsection shall be construed to require a utility to prune or remove a tree.

(e) No utility shall be required to obtain a permit pursuant to subsection (f) of section 23-65, as amended by this act, or provide notice under subsection (c) of this section to prune or remove a tree, as necessary, if any part of a tree is in direct contact with an energized electrical conductor or has visible signs of burning. Nothing in this subsection shall be construed to require a utility to prune or remove a tree.

(f) No utility shall exercise any powers which may have been conferred upon it to change the location of, or to erect or place, wires, conductors, fixtures, structures or apparatus of any kind over, on or under any public road, public highway or public ground, without the consent of the adjoining proprietors or, if such company is unable to obtain such consent, without the approval of the Public Utilities

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Regulatory Authority, which shall be given only after a hearing upon notice to such proprietors. The authority may, if it finds that public convenience and necessity require, authorize the changing of the location of, or the erection or placing of, such wires, conductors, fixtures, structures or apparatus over, on or under such public road or highway or public ground.

(g) Each utility shall operate an electronic mail account to receive objections, requests for modification, inquiries or complaints pursuant to subsections (a) to (f), inclusive, of this section.

(h) When conducting vegetation management within a utility protection zone pursuant to this section, the utility shall provide for the removal or disposition of any debris generated as a result of such pruning or removal. The provisions of this subsection shall apply only to vegetation management requested by the utility and approved pursuant to this section and, if applicable, section 23-65, as amended by this act.

(i) Not later than January 31, 2017, and each year thereafter, each utility intending to conduct vegetation management in a town or borough in this state shall provide the following to the tree warden of such town or borough, or to the chief elected official of each such town or borough: (1) A plan detailing the proposed roads or areas in said town or borough where such vegetation management will take place in the forthcoming calendar year, and (2) the estimated time schedule for such proposed vegetation management. Each town or borough provided with a utility vegetation management plan in accordance with this subsection shall make such plan publicly available, by electronic means or otherwise, not later than fourteen days after receipt, and keep such plan publicly available for the remainder of the forthcoming calendar year.

(j) Except as provided in subsection (e) of this section, (1) nothing in

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this section shall be construed to authorize any utility to conduct vegetation management in any utility protection zone, or portion thereof, that is located on any parcel of municipal property without complying with the provisions of section 23-65, as amended by this act, and (2) any vegetation management conducted in such a zone in violation of the requirements of section 23-65, as amended by this act, shall be considered a violation of this title for purposes of section 16-41.

Approved July 6, 2017